



**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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ROBERT NEELY,

Petitioner,

07 CIVIL 9267 (SHS)

-against-

JUDGMENT

L. MARSHALLM Acting Supt.,
Respondent.

SCANNED

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Petition for a Writ of Habeas Corpus, pursuant to T. 28 U.S.C. §2254, having been submitted to the Honorable Sydney H Stein, United States District Judge, and the matter having been referred to the Magistrate Judge Francis, who on July 14, 2008, having issued his Report, and the Court on September 3, 2008, having handed down its Order affirming the Report of Magistrate Judge Francis, recommending dismissal, refusing to issue a certificate of appealability, and dismissing the petition, it is,

ORDERED, ADJUDGED AND DECREED: That pursuant to the Court's Order dated December 18, 2007, the Report of the Magistrate Judge is affirmed, the petition be and it is hereby denied in all respects. A certificate of probable cause to appeal will not issue, since the petitioner's claim presents no questions of substance for appellate review. Finally, we certify that any appeal from the Court's decision in forma pauperis should not be viewed as taken in good faith, in as much as such appeal would not be taken in good faith.

DATED: New York, New York
Sept. 10, 2008

JAMES M. PARKISON

BY:

Clerk of Court

Dep Clerk

THIS DOCUMENT WAS ENTERED
ON THE DOCKET ON _____